

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00854R

Parcel No. 241/00993-733-212

Michael Duster,
Appellant,

v.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on November 12, 2015. Michael Duster is self-represented and requested his appeal be considered without a hearing. Assistant County Attorney Christina Gonzalez is legal counsel for the Polk County Board of Review.

Duster is the owner of a two-story, residential dwelling located at 7718 NW 104th Court, Grimes. The subject property has 2663 total square feet of living area, a full basement with 922 square feet of average plus quality finish, a 785 square-foot attached garage, and an open porch. It was constructed in 2013. Another open porch was added in 2014. The dwelling is listed in normal condition and with high quality construction (Grade 2-05). The site is 0.599-acres.

Duster purchased the property in May 2014 for \$429,000.

The property's January 1, 2015, assessment was \$431,000, allocated as \$113,200 in land value and \$317,800 to improvement value. Duster's protest to the Board of Review claimed the assessment was not equitable as compared with assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a).

The Board of Review denied the petition.

Duster then appealed to PAAB. He believes the subject property's fair assessment is \$420,500.

Findings of Fact

Duster alleges his property's assessment is not equitable on a per-square-foot basis as compared to other properties he selected for analysis. To support his claim, Duster identified nine, two-story properties constructed between 2007 and 2012 and calculated the assessed value per square foot for the total finished area of the improvements (main and upper living areas, as well as basement finish). (Ex. B). Using this method, he determined the values ranged from \$105.80 to \$117.20 per square foot and his property was at \$120.22 per square foot. The following chart summarizes his analysis.

Comp #	Address	Grade	Main TSFLA	Upper TSFLA	Base Fin	Total Finished Area	2015 AV	AV PSF of Total Finish
	Subject	2-05	1272	1391	922	3585	\$ 431,000	\$ 120.22
1	241/00933-773-209	3+00	1381	1441	1100	3922	\$ 416,000	\$ 106.07
2	241/00993-733-223	3+00	1237	1233	890	3360	\$ 360,400	\$ 107.26
3	241/00860-030-000	3+10	1247	1480	1210	3937	\$ 410,100	\$ 104.17
4	241/00434-472-000	3+05	1204	1296	885	3385	\$ 342,200	\$ 101.09
5	241/00860-032-000	2+10	1110	1553	854	3517	\$ 412,200	\$ 117.20
6	241/00434-476-000	2-05	1447	1398	800	3645	\$ 404,100	\$ 110.86
7	241/00434-465-000	1-10	1462	1317	1125	3904	\$ 433,900	\$ 111.14
8	241/00860-031-000	2+00	1316	1630	938	3884	\$ 432,900	\$ 111.46
9	241/00860-011-000	3+10	1214	1188	952	3354	\$ 372,000	\$ 110.91

The Board of Review submitted comments from the assessor outlining its position and responding to Duster's assertions. (Ex. A). The Assessor's Comments state that three of Duster's nine selected properties (5, 6, and 8) are the most comparable to the subject property. We agree and note that all of the properties except Comparables 5-8 have construction quality grades inferior to Duster's dwelling and will thus have lower assessed values per square foot.

The Assessor's Comments also point out a flaw in Duster's analysis: "Appraisal methodology does not compare raw dollar per square foot of assessed value for all levels of finished area. There are factors that affect the raw numbers such as grade, age, square footage on each level, quality of basement finish, etc." (Ex. B).

The Board of Review submitted a list of comparable properties for consideration. (Ex. C). These properties are summarized in the chart below.

Address	Year Blt	Grade	TSFLA	Base Fin	2015 AV	AV PSF
Subject	2013	2-05	2663	922	\$431,000	\$161.85
311/00700-011-000	2014	2+10	2638	875	\$444,700	\$168.57
241/00434-605-010	2013	2-10	2669	1093	\$390,200	\$146.20
241/00860-046-000	2013	2-05	2695	0	\$391,500	\$145.27
241/00993-733-001	2013	2+00	2799	1095	\$513,600	\$183.49
311/00305-749-138	2014	2+05	3419	1290	\$513,300	\$150.13

The Board of Review's comparables appear more similar to the subject property's construction quality than Duster's comparables. They are also similar in size. The assessed values, ranging from \$145.27 to \$183.49 per square foot, bracket the subject property's \$161.85 per-square-foot assessment and indicate the assessment is equitable.

No sales data was provided for any of the properties submitted to complete an assessment/sales ratio analysis.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB

considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). In this case, Duster did not shift the burden, and therefore, must prove the assessment is inequitable based upon a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred

percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Duster offered nine properties he considered comparable for an equity analysis. Minimal information was submitted to evaluate the comparability of these properties, but we note they varied in construction quality and age. Also, it is insufficient to merely compare properties on the basis of their value per square foot of living quarters finish. Such an approach does not account for the many potential differences amongst properties, such as quality of finish, lot size and view, bathroom count, garage area, and exterior living space. Moreover, none of the properties, other than the subject property, were recent sales; therefore, it was not possible to develop an assessment/sales ratio analysis as required by *Maxwell*.

The Board of Review also identified five properties that are more similar to the subject property. Even if merely comparing their assessed values per square foot was a reasonable method, they suggest the assessment is equitable.

Duster did not assert any other inequity in the assessment. For the foregoing reasons, Duster failed to show his property is inequitably assessed.

Order

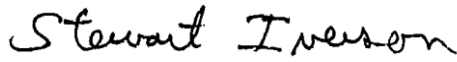
IT IS THEREFORE ORDERED that the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 11th day of December, 2015.



Jacqueline Rypma, Presiding Officer



Stewart Iverson, Board Chair



Karen Oberman, Board Member

Copies to:

Michael Duster

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